IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

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Khem Das. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 792/2007

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Date of Order: May 11, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ramesh Panwar, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate, for respondents.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of the order Annx.6 dated 20-9-2006, by which a penalty of deduction of 10% of the petitioner's pension for five years was imposed.

The facts of the case, in a nut shell, are that on attaining the age of superannuation, the petitioner retired on 31-12-2003 as Inspector. While working as the Patwari, Bhakri from 4-5-2000 to 16-6-2000, the petitioner was also holding the additional charge of Patwar Circle, Gular. He received an order Annx.7 dated 3-6-2000 issued by the Sub-Divisional Officer, Parbatsar, district Nagaur, directing the petitioner to make mutation entries of the 12 Bigha 10 Biswa land out of 25 Bigha

land of Khasra No.193 in favour of Hukma Ram and Ganga Ram Sons of Hardev Ram, the remaining land of 12 Bigha 10 Biswas in favour of Rama Ram S/o Rugha Ram and 8.11 Bigha in favour of Nathu Ram S/o Kishna Ram in compliance of the judgment dated 23-11-1873 passed in Case No.4/1972. In compliance of the order Annx.7 dated 3-6-2000, petitioner made mutation entries on 6-6-2000 and handed over the additional charge to the Original Patwari of Patwar Circle, Gular on 11-6-2000. The aforesaid mutations were sanctioned on 21-12-2000 after submitting the Possession Report dated 19-12-2000 by the original Patwari of Patwar Circle, Gular after comparison report of the Revenue Inspector and the detailed reasons given by the Naib Tehsildar, Parbatsar for passing the mutation order. However, vide Annx.1 dated 2-6-2003, a charge sheet along with statement of allegations was issued to the petitioner; petitioner denied the charges and submitted detailed reply to the charges; an inquiry officer was appointed, who asked the petitioner to submit his representation; petitioner filed representation but without considering the same, the respondent authority passed the impugned order Annx.6 dated 209-2006 imposing he penalty of reduction of 10% pension for five years. Hence this writ petition.

I have heard learned counsel for the parties.

It has been submitted by the learned counsel for the

petitioner that whatever has been done by the petitioner is in compliance of the order of the Sub-Divisional Officer, Parbatsar Annx.7 dated 3-6-2000 as the petitioner, at the relevant time, was also holding the additional charge of Patwar Circle, Gular. It has further been contended that the reply and detailed representation submitted by the petitioner have not been considered in right perspective and the impugned order Annx.6 dated 20-9-2006 is erroneous,unfounded and illegal.

Learned Deputy Government Advocate could not controvert the position regarding issuance of the order Annx.7 dated 3-6-2000 by the Sub-Divisional Officer, Parbatsar, who is the superior officer of the petitioner.

From a bare perusal of the facts on record, it is crystal clear that at the relevant time, the petitioner was holding the additional charge of Patwar Circle, Gular, where the land in question is situated. By the order Annx.7 dated 3-6-2000, the Sub-Divisional Officer, Parbatsar issued a direction for mutation of the land in question in favour of the persons named therein and submit the compliance report. The petitioner, being a subordinate employee of respondent No.3 the Sub-Divisional Officer, Parbatsar and holding the additional charge of Patwar Circle, Gular, mutated the land on 6-6-2000 as per the directions issued in Annx.7 dated 3-6-2000 and thereafter handed over the charge to the original Patwari of Patwar Circle,

Gular on 11-6-2000, who submitted the Possession Report on 19-12-2000, which was compared by the Revenue Inspector and the Naib Tehsildar, Parbatsar passed an order for mutation after giving detailed reasons. In this view of the matter, whatever has been done by the petitioner is in strict compliance of the order Annx.7 dated 3-6-2000 issued by his superior officer, i.e. respondent No.3 the Sub-Divisional Officer, Parbatsar as the petitioner was holding the additional charge of Patwar Circle, Gular from 4-5-2000 to 11-6-2000. Thus, whatever has been done by the petitioner was in strict compliance of the order Annx.7 dated 3-6-2000 and, therefore, it cannot be said to be a case of any sort of misconduct on his part.

Consequently, the writ petition is allowed; the impugned order Annx. 6 dated 20-9-2006 is quashed and set aside and the petitioner is exonerated of the charges levelled against him with all consequential benefits and reliefs. There shall be no order as to costs.

(H.R. PANWAR), J.

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